

ENTERED

March 14, 2025

Nathan Ochsner, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

MARLEN SAYEGH AGAM DE MAARI, §
§
Plaintiff, §
§
VS. § CIVIL ACTION NO. 4:23-CV-04129
§
UR MENDOZA JADDOU, *et al.*, §
§
Defendants. §

ORDER

Before the Court are United States Magistrate Judge Yvonne Y. Ho's Memorandum and Recommendation filed on January 22, 2025 (Doc. #17), Plaintiff's Objections (Doc. #18), and Defendants' Response (Doc. #19). The Magistrate Judge's findings and conclusions are reviewed de novo. FED. R. CIV. P. 72(b); 28 U.S.C. § 636(b)(1); *United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989). Having reviewed the parties' arguments and applicable legal authority, the Court adopts the Memorandum and Recommendation as its Order.

Plaintiff objects to Judge Ho's determination that Plaintiff's asylum application constitutes a non-final, non-reviewable agency action. Doc. #18 at 2. Specifically, Plaintiff objects to Judge Ho's reliance on *Dhakal v. Sessions*, 895 F.3d 532, 534 (7th Cir. 2018), as it originates from another circuit and was dismissed on the merits, as opposed to lack of jurisdiction. *Id.* at 1. However, since Judge Ho issued her Memorandum and Recommendation, a court in the Southern District of Texas similarly held that the denial of asylum does not constitute a final agency action when, as here, the individual retains valid Temporary Protected Status. *See Sayegh de Kewayfati v. Garland*, No. CV 24-00180, 2025 WL 347059, at *2 (S.D. Tex. Jan. 30, 2025). Without final

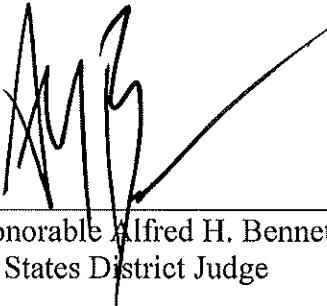
agency action, the Court lacks jurisdiction over an APA claim, even in an immigration context. *See Elldakli v. Garland*, 64 F.4th 666, 671 (5th Cir. 2023).

Therefore, the Court adopts the Memorandum and Recommendation as its Order, and Defendants' Motion to Dismiss (Doc. #11) is GRANTED. Plaintiff's sole claim under the Administrative Procedure Act is DISMISSED WITHOUT PREJUDICE for lack of subject-matter jurisdiction.

It is so ORDERED.

MAR 12 2025

Date



The Honorable Alfred H. Bennett
United States District Judge